



28 MAR 2007

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|  |   |          |
|--|---|----------|
| In re Application of                   | : |          |
| HINTZE et al.                          | : |          |
| Application No.: 10/542,479            | : | DECISION |
| PCT No.: PCT/EP2004/000243             | : |          |
| Int. Filing Date: 15 January 2004      | : |          |
| Priority Date: 17 January 2003         | : |          |
| Attorney Docket No.: RW-173PCT         | : |          |
| For: CERAMIC CUTTING TOOL WITH AN EDGE | : |          |
| AREA, METHOD FOR THE PRODUCTION        | : |          |
| AND USE THEREON                        | : |          |

This notification is in response to applicants' petition to revive under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 09 March 2007.

**BACKGROUND**

On 15 January 2004, applicant filed international application PCT/EP2004/000243, which designated the U.S. and claimed a priority date of 17 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 July 2005 (17 July 2005 being a Sunday).

On 14 July 2005, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration of inventors.

On 21 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b), the surcharge under 37 CFR 1.492(h), a translation of the international application into English, and the processing fee under 37 CFR 1.492(i) were required. The NOTIFICATION set a two-month extendable period for response.

On 18 April 2006, applicants filed an executed declaration of inventors, a purported translation of the international application into English, the surcharge under 37 CFR 1.492(h), and the processing fee under 37 CFR 1.492(i).

On 20 July 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the response filed 18 April 2006 was acknowledged but that the requirements set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 February 2006 had not been met. Specifically, it was indicated that the text in the drawings had not been properly translated. This NOTIFICATION set a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 February 2006, whichever was longer. This Notification also noted that no extension of this time limit may be granted under 37 CFR 1.136, but that the period for response set in the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 February 2006 may be extended under 37 CFR 1.136(a).

On 31 July 2006, applicants filed a "RESPONSE TO NOTICE OF DEFECTIVE RESPONSE" stating that the translation filed 12 April 2006 included an English translation of the foreign wording appearing in the drawings.

On 17 November 2006, a NOTIFICATION was mailed indicating that the translation filed 18 April 2006 was not an accurate translation of the international application as filed because it included foreign text in the drawings (Attention was directed to PCT Rules 76.5 and 49.5(d).)

On 03 January 2007, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned as to the United States of America for failure to properly respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 February 2006 within the time period set therein.

On 09 March 2007, applicants filed the instant petition to revive under 37 CFR 1.137(b) which was accompanied by a translation of the drawings.

#### **DISCUSSION**

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a proper translation of the drawings on 09 March 2007.

As to item (2), applicant submitted the petition fee on 09 March 2007.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

**CONCLUSION**

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



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